

REMARKS/ARGUMENTS**I. General Remarks and Disposition of the Claims**

Please consider the application in view of the following remarks. Applicants thank the Examiner for the careful consideration of this application including the references that Applicants have submitted in this case.

At the time of the Final Office Action, claims 18-32 and 35-77 were pending in this application. Claims 20-24, 27, 30, 37-41, 44, 47, 50-64, and 67 are withdrawn from consideration. Claims 18, 19, 25, 26, 28, 29, 31, 32, 35, 36, 42, 43, 45, 46, 48, 49, 65, 66, and 68-77 were rejected in the Final Office Action. Applicants respectfully request reconsideration in light of the remarks contained herein.

II. Remarks Regarding Rejections Under 35 U.S.C. § 103(a)**A. Claims 35, 36, 42, 45, 48, 49, 65, 66, 68-70, and 72-75**

Claims 35, 36, 42, 45, 48, 49, 65, 66, 68-70, and 72-75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,381,864 issued to Nguyen *et al.* (hereinafter “*Nguyen*”) in view of U.S. Patent No. 4,493,875 issued to Beck *et al.* (hereinafter “*Beck*”), and further in view of U.S. Patent 5,585,524 issued to Sielcken *et al.* (hereafter “*Sielcken*”). With respect to this rejection, the Final Office Action states:

Claims 35, 36, 42, 45, 48, 49, 68-70, and 72-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nguyen *et al.* (US 5,381,864) in view of Beck *et al.* (US 4,493,875), and further in view of Sielcken *et al.* (US 5,585,524) for the reasons of record set forth in paragraph 2 of the Office Action mailed on 6/5/2009.

Applicant's arguments filed November 4, 2009 have been fully considered but they are not persuasive.

(A) Applicants submit that the introduction of Sielcken fails to establish a *prima facie* case of obviousness for at least two reasons: a) Sielcken is non-analogous art and b) there is no reasonable expectation of success that the continuous tubular reactor disclosed therein could be applied to the subterranean treatment fluids disclosed in Nguyen and Beck.

1. Sielcken is Non-Analogous Art

Applicants submit that Sielcken is non-analogous art because 1) Siel[c]cken is not in the field as Applicants since Sielcken relates to a method of preparing an aldehyde while recycling cobalt, while the present application relates to oil and gas

field services; and 2) Siel[c]ken is not reasonably pertinent to the particular problem with which the present invention is involved, i.e., providing an efficient means to reduce particulate density, such as in a subterranean fracturing operation. Sielcken is not reasonably pertinent to providing particulates for any purpose, and instead relates to an organic synthesis reaction, which is presumably conducted in a lab or other highly controlled space.

The Examiner respectfully disagrees with this argument. Sieleken is analogous art because Sieleken meets second criteria: Sieleken is reasonably pertinent to the particular problem with which the present invention is involved because Sieleken relates to a problem of *mixing continuous streams of components to be mixed*.

2. There is No Reasonable Expectation of Successfully Applying the Techniques of Sielcken to Nguyen and Beck

Applicants submit that Sielcken relates to organic synthesis techniques that, presumably, are performed in a lab or other highly controlled space. In Sielcken, the reaction temperatures and pressures are tightly controlled, and it appears that the reactants are in liquid form (see Sielcken, col. 3, 11. 36-39; col. 5, 11.29-36). The organic reaction scheme disclosed in Sielcken does not involve the use of anything resembling the particulates discussed in Nguyen and Beck. There is no reasonable expectation that, merely because a continuous tubular reactor is purportedly effective in Sielcken, such a reactor would be successfully used in the particulate coating process of Nguyen and Beck. For example, there is no indication that the tubular reactor could handle the solid particulates of Nguyen and Beck. At least because Sielcken is nonanalogous art, and further because there is no reasonable expectation of successfully combining the relevant teachings of Sielcken with Nguyen and Beck, Applicants respectfully submit that a prima facie case of obviousness has not been established.

The Examiner respectfully disagrees with this argument. First of all, Nguyen teaches that the solid particulates are preferably suspended *in a carrier liquid* (See column 7, lines 31-32). Second, Nguyen et al teaches that the components of the treating composition can be *blended together* using generally *any* procedure which is commonly used including a *continuous stream* tub mixer. Third, according to Sieleken the components that can be mixed well in a *continuous stream* tub mixer, can also be mixed well in a tubular reactor. Clearly, the nature of components to be mixed is irrelevant, as long as they are capable of mixing well together. Therefore, one of ordinary skill in the art would have reasonable expectation of success in mixing components of

Nguyen et al in a tubular reactor because they mix well in a continuous stream tub mixer.

Therefore, in contrast to Applicants argument, a *prima facie* case of obviousness has been established.

(Final Office Action at 2, 4-5.) Applicants respectfully disagree.

In order for a reference or combination of references to form the basis for a rejection under § 103(a), a *prima facie* case of obviousness must be established. Obviousness is determined by construing the scope of the prior art, identifying the differences between the claims and the prior art, determining the level of skill in the pertinent art at the time of the invention, and considering objective evidence present in the application indicating obviousness or nonobviousness. *Graham v. John Deere*, 383 U.S. 1, 17 (1966). Applicants respectfully submit that due to the differences between the claims and the cited references, the Final Office Action fails to establish a *prima facie* case of obviousness with respect to the combination of *Nguyen*, *Beck*, and *Sielcken*.

With respect to independent claims 35 and 68, as noted in Applicants' responses filed on April 15, 2009 and November 4, 2009, the combination of *Nguyen* and *Beck* fails to teach or suggest "combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream." Rather, the Final Office Action relies upon *Sielcken* for this missing element. Specifically, the Final Office Action alleges that it would be obvious to modify *Nguyen* and *Beck* in light of the teachings in *Sielcken* to include a continuous tubular reactor, thus allegedly satisfying the missing element. Applicants disagree and submit that *Sielcken* fails to obviate the deficiencies of the combination of *Nguyen* and *Beck* for the following reasons.

1. The motivation articulated in the Final Office Action is insufficient to support a *prima facie* case of obviousness.

Applicants respectfully submit that the motivation articulated in the Final Office Action for modifying the combination of *Nguyen* and *Beck* is insufficient to establish a *prima facie* case of obviousness. The portion of *Sielcken* relied upon in the Final Office Action states:

In case of a batchwise process the reaction zone where hydroformylation takes place can take the form of a stirred vessel.
In case of a continuous process a stirred tank reactor (CSTR), a

tubular reactor, a non-stirred bubble column and an internal or external gas-lift loop reactor.

Sielcken, col. 5, lines 61-65. Based on this disclosure, the Examiner alleges that:

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have carried out a continuous process of *Nguyen et al '864* in a continuous stream tubular reactor instead of a continuous stream tub mixer since *Sielcken et al* teaches that a continuous process can be carried out using a CSTR or a tubular reactor.

(See Final Office Action mailed June 5, 2009.) Applicants respectfully submit that this motivation is insufficient.

Although *Sielcken* may discuss that *a particular reaction* (a hydroformylation reaction) can take place in a stirred tank reactor, a tubular reactor, a non-stirred bubble column, or an internal or external gas-lift loop reactor, there is no discussion in *Sielcken* that all continuous processes can be carried out using a CSTR or a tubular reactor. The mere fact that *Sielcken* discusses that a hydroformylation reaction can take place in various reactors is insufficient to motivate a person of ordinary skill in the art to modify *Nguyen* to include a continuous stream tubular reactor for coating particulates. Thus, the Examiner's motivation to combine these references is insufficient and a *prima facie* case of obviousness has not been established.

2. There is No Reasonable Expectation of Successfully Applying the Techniques of *Sielcken* to *Nguyen* and *Beck*.

Applicants respectfully submit that the Final Office Action fails to establish a *prima facie* case of obviousness because there is no reasonable expectation of success that the continuous tubular reactor discussed in *Sielcken* could be used in the particulate coating process of *Nguyen* and *Beck*. In order to establish a *prima facie* case of obviousness based on the combination of references, there must be a reasonable expectation of successfully combining the references. See MPEP § 2143.02. Rejections should not be based on the impermissible use of hindsight in view of the Applicant's own disclosure. See, e.g., *Ex parte Warren*, Appeal No. 2007-4515, 2008 WL 1706584 (Bd. Pat. App. & Interf., Apr. 11, 2008).

As Applicants have previously discussed, *Sielcken* relates to organic synthesis techniques that, presumably, are performed in a lab or other highly controlled space. In *Sielcken*, the reaction temperatures and pressures are tightly controlled, and it appears that the reactants are

only in liquid form (see *Sielcken*, col. 3, ll. 36-39; col. 5, ll. 29-36). The organic reaction scheme disclosed in *Sielcken* does not involve the use of anything resembling the particulates discussed in *Nguyen* and *Beck*. In fact, the fluids discussed in *Nguyen* and *Beck* are substantially different than the fluids discussed in *Sielcken*. As there is no indication in the prior art that the continuous tubular reactor discussed in *Sielcken* could be applied to a particulate coating process, a person of ordinary skill in the art would have no reasonable expectation that such a reactor could be successfully used in the particulate coating process of *Nguyen* and *Beck*.

In response to these arguments, the Final Office Action alleges that because (1) *Nguyen* teaches that the solid particulates are preferably suspended in a carrier fluid, (2) *Nguyen* teaches that the components can be blended together using generally any procedure which is commonly used, and (3) *Sielcken* discuss that components that can be mixed in a continuous stream tub mixer can also be mixed in a tubular reactor, such an expectation of success exists. Applicants disagree with each of these points.

First, the allegation that *Nguyen* teaches that the solid particulates are preferably suspended in a carrier fluid does not establish a reasonable expectation of success. Regardless of whether a carrier fluid is present or not, there is no indication in the prior art that the continuous tubular reactor discussed in *Sielcken* could be applied to the particulate coating process of *Nguyen* and *Beck*. Thus, the alleged fact that *Nguyen* teaches that the solid particulates are preferably suspended in a carrier fluid does not demonstrate that there is a reasonable expectation of success for such a modification.

Second, the allegation that *Nguyen* teaches that the “components of the treating composition can be *blended together* using generally *any* procedure which is commonly used including a continuous stream tub mixer” does not establish a reasonable expectation of success. Applicants note that *Nguyen* fails to make such a teaching. Rather, *Nguyen* discusses that the components “can be blended together using generally any procedure *which is commonly used for preparing fracturing, frac-pack, and gravel packing compositions.*” (See *Nguyen*, col. 12, lines 46-49 (emphasis added)). Applicants note that the Final Office Action fails to allege that the tubular reactor discussed in *Sielcken* is commonly used for preparing fracturing, frac-pack, and gravel packing compositions. Therefore, this allegation fails to demonstrate that there is a reasonable expectation of success for such a modification.

Third, the allegation that *Sielcken* discusses that components, which can be mixed in a continuous stream tub mixer can also be mixed in a tubular reactor, does not establish a reasonable expectation of success. As Applicants have previously discussed, *Sielcken* fails to make such a disclosure. Rather, *Sielcken* discusses that *a particular reaction* (a hydroformylation reaction) can take place in a stirred tank reactor, a tubular reactor, a non-stirred bubble column, or an internal or external gas-lift loop reactor. The nature of the components to be mixed is relevant, as there is no indication in the prior art that the continuous tubular reactor discussed in *Sielcken* could be applied to the particulate coating process of *Nguyen* and *Beck*. A person of ordinary skill in the art would have no reasonable expectation that such a reactor would be successfully used in the particulate coating process of *Nguyen* and *Beck*.

Thus, for at least these reasons, there is no reasonable expectation of successfully applying the techniques of *Sielcken* to *Nguyen* and *Beck* and a prima facie case of obviousness has not been established.

3. *Sielcken* is Non-Analogous Art.

Applicants respectfully submit that a prima facie case of obviousness cannot be established with respect to the combination of *Nguyen* and *Beck* with *Sielcken* because *Sielcken* is non-analogous art. “To rely on a reference under 35 U.S.C. 103, [the reference] must be analogous art.” See MPEP § 2141.01(a)(I). In order for a reference to qualify as analogous prior art, it must either be in the field of Applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventors were concerned. See MPEP § 2141.01(a).

As Applicants have previously argued, *Sielcken* is not in the field of Applicants’ endeavor. The general field of Applicants’ endeavor relates to methods for creating reduced-density, coated particulates and methods for using such particulates in subterranean operations. See Specification, abstract. On the other hand, *Sielcken* is related to a method for the preparation of an aldehyde in a process in which cobalt is being recycled. See *Sielcken*, abstract. Thus, *Sielcken* is not in the field do Applicants’ endeavor.

Nor is *Sielcken* reasonably pertinent to the particular problem with which Applicants’ were concerned. In order for a reference to be reasonably pertinent, “it must be one which, because of the matter with which it deals, logically would have *commended* itself to an inventor’s attention in considering his or her *invention as a whole*.” See MPEP § 2141.01(a) (emphasis added). *Sielcken* deals with chemical reactions to produce an aldehyde. See *Sielcken*,

entire disclosure. On the other hand, Applicants' invention, *as a whole*, is concerned with adhering density reducing materials to coated particulates and their use in a subterranean formation. *See* Specification. This has nothing to do with the problems addressed in *Sielcken*. Although the Examiner alleges that the particular problem with which Applicants were concerned was the problem of mixing continuous streams of components to be mixed, this is only a single component of Applicants' invention. In a proper analysis on whether a reference is reasonably pertinent to the particular problem with which an inventor was concerned, Applicants' invention *as a whole* must be considered. *See* MPEP § 2141.01(a).

Applicants respectfully submit that the *Sielcken* reference would not have *commended* itself to the inventor's attention in considering the present invention *as a whole*. Processes in which aldehydes are formed would not commend themselves to the attention of an inventor considering methods of adhering density reducing materials to coated particulates and their use in a subterranean formation. A person of ordinary skill in the art would have no reason to believe that the methods useful for forming aldehydes would be useful to employ in methods of adhering density reducing materials to coated particulates. Even if a person of ordinary skill in the art could logically conceive that such methods of making aldehydes could be useful, because of the vast difference of structure of the fluids used to form aldehydes and fluids used to form reduced density particulates, a reference dealing with the formation of aldehydes would not have *commended* itself to the attention of an inventor considering methods of adhering density reducing materials to coated particulates and their use in a subterranean formation.

Thus, *Sielcken* is not analogous art and a *prima facie* case of obviousness has not been established.

Therefore, for at least these reasons, Applicants respectfully submit that a *prima facie* case of obviousness has not been established. Therefore, Applicants request that the obviousness rejection be withdrawn.

B. Claims 43 and 74

Claims 43 and 74 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nguyen* in view of *Beck*, in view of *Sielcken*, as applied above, and in still further view of U.S. Patent No. 4,665,988 issued to Murphey *et al.* (hereinafter "*Murphey '988*"). Applicants respectfully disagree.

As discussed above in Section II (A), the combination of *Nguyen* and *Beck* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claims 35 and 68, and reliance on *Sielcken* to teach this limitation is improper. Furthermore, *Murphey* '988 also fails to teach this limitation. Rather, the Final Office Action relied on *Murphey* '988 for its alleged disclosure of ethylene glycol butyl ether. Therefore, Applicants respectfully submit that the combination of *Nguyen*, *Beck*, *Sielcken*, and *Murphey* '988 fails to obviate independent claims 35 and 68. Claims 43 and 74 depend, either directly or indirectly, from independent claims 35 and 68, and thus require each and every limitation of the independent claim from which they depend. Thus, Applicants respectfully submit that claims 43 and 74 are not rendered obvious by the combination of *Nguyen*, *Beck*, *Sielcken*, and *Murphey* '988 and respectfully request the withdrawal of this rejection.

C. Claims 45, 46, 75, and 76

Claims 45, 46, 75, and 76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nguyen* in view of *Beck*, in further view of *Sielcken*, as applied above, and in still further view of U.S. Patent Application Publication No. 2002/0048676 by *McDaniel et al.* (hereinafter “*McDaniel*”). Applicants respectfully disagree.

As discussed above in Section II (A), the combination of *Nguyen* and *Beck* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claims 35 and 68, and reliance on *Sielcken* to teach this limitation is improper. Furthermore, *McDaniel* also fails to teach this limitation. Rather, the Final Office Action relied on *McDaniel* for its alleged disclosure that a liquid resole phenol/formaldehyde resin, glycidyl ether, an epoxy, a polyester resin, or a natural resin can be used for binding particles together. Therefore, Applicants respectfully submit that the combination of *Nguyen*, *Beck*, *Sielcken*, and *McDaniel* fails to obviate independent claims 35 and 68. Claims 45, 46, 75, and 76 depend, either directly or indirectly, from independent claims 35 and 68, and thus require each and every limitation of the independent claim from which they

depend. Thus, Applicants respectfully submit that claims 45, 56, 75, and 76 are not rendered obvious by the combination of *Nguyen*, *Beck*, *Sielcken*, and *McDaniel* and respectfully request the withdrawal of this rejection.

D. Claims 18, 19, 25, 28, 31, 32, 65, 66, 71, and 77

Claims 18, 19, 25, 28, 31, 32, 71, and 77 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nguyen* in view of *Beck*, in further view of *Sielcken*, and in still further view of U.S. Patent No. 4,969,523 issued to Martin *et al.* (hereinafter “*Martin*”). Applicants respectfully disagree.

As discussed above in Section II (A), the combination of *Nguyen* and *Beck* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claims 35 and 68, and reliance on *Sielcken* to teach this limitation is improper. For at least the same reasons, the combination of *Nguyen*, *Beck*, and *Sielcken* fails to obviate independent claim 18, which requires this same limitation. Furthermore, *Martin* also fails to teach this limitation. Rather, the Final Office Action relied on *Martin* for its alleged disclosure of polystyrene divinylbenzene. Therefore, Applicants respectfully submit that the combination of *Nguyen*, *Beck*, *Sielcken*, and *Martin* fails to obviate independent claims 18, and 68. Claims 19, 25, 28, 31, 32, 71, and 77 depend, either directly or indirectly, from independent claims 18 and 68, and thus require each and every limitation of the independent claim from which they depend. Thus, Applicants respectfully submit that claims 18, 19, 25, 28, 31, 32, 71, and 77 are not rendered obvious by the combination of *Nguyen*, *Beck*, *Sielcken*, and *Martin* and respectfully request the withdrawal of this rejection.

E. Claim 26

Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nguyen* in view of *Beck*, *Sielcken*, *Martin*, and *Murphey* '988. Applicants respectfully disagree.

As discussed above in Section II (D), the combination of *Nguyen*, *Beck*, and *Martin* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claim 18, and reliance on

Sielcken to teach this limitation is improper. Furthermore, as discussed above in Section II (B), the combination of *Nguyen, Beck, and Murphey '988* also fail to teach this limitation. Therefore, Applicants respectfully submit that the combination of *Nguyen, Beck, Sielcken, Martin, and Murphey '988* fails to obviate independent claim 18 for at least the same reasons. Claim 26 depends indirectly from independent claim 18, and thus requires each and every limitation of that independent claim. Thus, Applicants respectfully submit that claim 26 is not rendered obvious by the combination of *Nguyen, Beck, Sielcken, Martin, and Murphey '988* and respectfully request the withdrawal of this rejection.

F. Claims 28 and 29

Claims 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nguyen* in view of *Beck, Sielcken, Martin, and McDaniel*. Applicants respectfully disagree.

As discussed above in Section II (D), the combination of *Nguyen, Beck, and Martin* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claim 18, and reliance on *Sielcken* to teach this limitation is improper. Furthermore, as discussed above in Section II (C), the combination of *Nguyen, Beck, and McDaniel* also fail to teach this limitation. Therefore, Applicants respectfully submit that the combination of *Nguyen, Beck, Sielcken, Martin, and McDaniel* fails to obviate independent claim 18 for at least the same reasons. Claims 28 and 29 depend from independent claim 18, and thus require each and every limitation of that independent claim. Thus, Applicants respectfully submit that claims 28 and 29 are not rendered obvious by the combination of *Nguyen, Beck, Sielcken, Martin, and McDaniel* and respectfully request the withdrawal of this rejection.

G. Claims 35, 36, 42, 45, 46, 48, 49, 68-70, 72, 73, 75, and 76

Claims 35, 36, 42, 45, 46, 48, 49, 68-70, 72, 73, 75, and 76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,128,390 issued to *Murphey et al.* (hereinafter “*Murphey '390*”) in view of *McDaniel*, and still further in view of *Sielcken*. Applicants respectfully disagree.

With respect to independent claims 35 and 68, as noted in Applicants’ responses filed on April 15, 2009, the combination of *Murphey '390* and *McDaniel* fails to teach or suggest

“combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream.” Rather, the Final Office Action relies upon *Sielcken* for this missing element. Specifically, the Final Office Action alleges that it would be obvious to modify *Murphey '390* and *McDaniel* in light of the teachings in *Sielcken* to include a continuous tubular reactor, thus allegedly satisfying the missing element. Applicants disagree and submit that *Sielcken* fails to obviate the deficiencies of the combination of *Murphey '390* and *McDaniel* for the same reasons outlined above in Section II (A) with respect to the combination of *Sielcken* with *Nguyen* and *Beck*. Specifically, (1) the motivation to combine these references articulated in the Final Office Action is insufficient to support a *prima facie* case of obvious, (2) there is no reasonable expectation of successfully applying the techniques of *Sielcken* to *Murphey '390* and *McDaniel*, and (3) *Sielcken* is non analogous art.

Therefore, for at least these reasons, Applicants respectfully submit that a *prima facie* case of obviousness has not been established. Therefore, Applicants request that the obviousness rejection be withdrawn.

H. Claims 43 and 74

Claims 43 and 74 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Murphey '390* in view of *Sielcken*, *McDaniel* and *Murphey '988*. Applicants respectfully disagree.

As discussed above in Section II (G), the combination of *Murphey '390* and *McDaniel* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claims 35 and 68, and reliance on *Sielcken* to teach this limitation is improper. Furthermore, as discussed above in Section II (B) *Murphey '988* also fails to teach this limitation. Therefore, Applicants respectfully submit that the combination of *Murphey '390*, *McDaniel*, *Sielcken*, and *Murphey '988* fails to obviate independent claims 35 and 68. Claims 43 and 74 depend, either directly or indirectly, from independent claims 35 and 68, and thus require each and every limitation of the independent claim from which they depend. Thus, Applicants respectfully submit that claims 43

and 74 are not rendered obvious by the combination of *Murphey '390*, *McDaniel*, *Sielcken*, and *Murphey '988* and respectfully request the withdrawal of this rejection.

I. Claims 18, 19, 25, 28, 29, 31, 32, 71, and 77

Claims 18, 19, 25, 28, 29, 31, 32, 71, and 77 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Murphey '390* in view of *McDaniel*, *Sielcken*, and *Martin*. Applicants respectfully disagree.

As discussed above in Section II (G), the combination of *Murphey '390* and *McDaniel* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claims 35 and 68, and reliance on *Sielcken* to teach this limitation is improper. For at least the same reasons, the combination of *Murphey '390*, *McDaniel*, and *Sielcken* fails to obviate independent claim 18 which contains this same limitation. Furthermore, as discussed above in Section II (D) *Martin* also fails to teach this limitation. Therefore, Applicants respectfully submit that the combination of *Murphey '390*, *McDaniel*, *Sielcken*, and *Martin* fails to obviate independent claims 18 and 68. Claims 19, 25, 28, 31, 32, 71, and 77 depend, either directly or indirectly, from independent claims 18 and 68, and thus require each and every limitation of the independent claim from which they depend. Thus, Applicants respectfully submit that claims 18, 19, 25, 28, 31, 32, 71, and 77 are not rendered obvious by the combination of *Murphey '390*, *McDaniel*, *Sielcken*, and *Martin* and respectfully request the withdrawal of this rejection.

J. Claim 26

Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Murphey '390* in view of *McDaniel*, *Sielcken*, *Martin*, and *Murphey '988*. Applicants respectfully disagree.

As discussed above in Section II (I), the combination of *Murphey '390*, *McDaniel*, and *Martin* fails to teach “combining the first flowing stream and the second flowing stream to form a third flowing stream that comprises the first flowing stream, the second flow stream, and a . . . fluid, wherein the first flowing stream and the second flowing stream are combined and mixed while continuing to flow as a stream,” as required by independent claim 18, and reliance on *Sielcken* to teach this limitation is improper. Furthermore, as discussed above in

Section II (H), the combination of *Murphey '390*, *McDaniel*, and *Murphey '988* also fails to teach this limitation. Therefore, Applicants respectfully submit that the combination of *Murphey '390*, *McDaniel*, *Sielcken*, *Martin*, and *Murphey '988* fails to obviate independent claim 18 for at least the same reasons. Claim 26 depends indirectly from independent claim 18, and thus requires each and every limitation of that independent claim. Thus, Applicants respectfully submit that claim 26 is not rendered obvious by the combination of *Murphey '390*, *McDaniel*, *Sielcken*, *Martin*, and *Murphey '988* and respectfully request the withdrawal of this rejection.

III. No Waiver

All of Applicants' arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art.

SUMMARY

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no fees are due in association with the filing of this response. Should the Commissioner deem that any fees are due, including any fees for extensions of time, the Commissioner is authorized to debit Baker Botts L.L.P.'s Deposit Account NO. 02-0383, Order No. 063718.0178, for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,

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